



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2562

by Rep. Thaddeus Jones

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.826 new

820 ILCS 40/12

820 ILCS 40/14 new

820 ILCS 40/15 new

from Ch. 48, par. 2012

Amends the Personnel Record Review Act and the State Finance Act. Authorizes the Department of Labor to assess civil penalties under the Personnel Record Review Act. Provides for collection actions by the Attorney General. Provides that employers in violation are subject to a penalty of \$250 plus \$25 per day of violation. Creates the Personnel Records Enforcement Fund, a special fund in the State treasury. Authorizes the Department to use the moneys in the fund for administration of the Act.

LRB098 07684 JLS 37757 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.826 as follows:

6 (30 ILCS 105/5.826 new)

7 Sec. 5.826. The Personnel Records Enforcement Fund.

8 Section 10. The Personnel Record Review Act is amended by
9 changing Section 12 and adding Sections 14 and 15 as follows:

10 (820 ILCS 40/12) (from Ch. 48, par. 2012)

11 Sec. 12. (a) The Director of Labor or his authorized
12 representative shall administer and enforce the provisions of
13 this Act. The Director of Labor may issue rules and regulations
14 necessary to administer and enforce the provisions of this Act.

15 (b) If an employee alleges that he or she has been denied
16 his or her rights under this Act, he or she may file a
17 complaint with the Department of Labor. The Department shall
18 investigate the complaint and shall have authority to request
19 the issuance of a search warrant or subpoena to inspect the
20 files of the employer, if necessary. The Department shall
21 attempt to resolve the complaint by conference, conciliation,

1 or persuasion. If the complaint is not so resolved and the
2 Department finds the employer has violated the Act, the
3 Department may assess any civil penalty allowed by this Act.
4 The civil penalties assessed by the Department shall be
5 recoverable in an action brought in the name of the people of
6 the State of Illinois by the Attorney General.

7 (b-5) If an employer violates this Act, the Department may
8 commence an action in the circuit court to enforce the
9 provisions of this Act including an action to compel
10 compliance. The circuit court for the county in which the
11 complainant resides, in which the complainant is employed, or
12 in which the personnel record is maintained shall have
13 jurisdiction in such actions.

14 (c) If an employer violates this Act, an employee may
15 commence an action in the circuit court to enforce the
16 provisions of this Act, including actions to compel compliance,
17 where efforts to resolve the employee's complaint concerning
18 such violation by conference, conciliation or persuasion
19 pursuant to subsection (b) have failed and the Department has
20 not commenced an action in circuit court to redress such
21 violation. The circuit court for the county in which the
22 complainant resides, in which the complainant is employed, or
23 in which the personnel record is maintained shall have
24 jurisdiction in such actions.

25 (d) Failure to comply with an order of the court may be
26 punished as contempt. In addition, the court shall award an

1 employee prevailing in an action pursuant to this Act the
2 following damages:

3 (1) Actual damages plus costs.

4 (2) For a willful and knowing violation of this Act, \$200
5 plus costs, reasonable attorney's fees, and actual damages.

6 (e) Any employer or his agent who violates the provisions
7 of this Act is guilty of a petty offense.

8 (f) Any employer or his agent, or the officer or agent of
9 any private employer, who discharges or in any other manner
10 discriminates against any employee because that employee has
11 made a complaint to his employer, or to the Director or his
12 authorized representative, or because that employee has caused
13 to be instituted or is about to cause to be instituted any
14 proceeding under or related to this Act, or because that
15 employee has testified or is about to testify in an
16 investigation or proceeding under this Act, is guilty of a
17 petty offense.

18 (Source: P.A. 84-525.)

19 (820 ILCS 40/14 new)

20 Sec. 14. Penalties. An employer or entity that violates any
21 of the provisions of this Act or any rule adopted under this
22 Act shall be subject to a civil penalty of \$250, plus \$25 per
23 day for each day the violation continues. The amount of the
24 penalty may be recovered in a civil action filed in any circuit
25 court by the Director of Labor or a person aggrieved by a

1 violation of this Act or any rule adopted under this Act. Any
2 uncollected amount shall be subject to the provisions of the
3 Illinois State Collection Act of 1986.

4 (820 ILCS 40/15 new)

5 Sec. 15. Personnel Records Enforcement Fund. All moneys
6 received by the Department as civil penalties under this Act
7 shall be deposited into the Personnel Records Enforcement Fund,
8 a special fund created in the State treasury. Moneys in the
9 Fund shall be used, subject to appropriation by the General
10 Assembly, by the Department for administration, investigation,
11 and other expenses incurred in carrying out its powers and
12 duties under this Act. The Department shall hire as many
13 investigators and other personnel as may be necessary to carry
14 out the purposes of this Act. Any moneys in the Fund at the end
15 of a fiscal year in excess of those moneys necessary for the
16 Department to carry out its powers and duties under this Act
17 shall be available to the Department for the next fiscal year
18 for any of the Department's duties and may be transferred from
19 the Personnel Records Enforcement Fund to the various accounts
20 available to the Department, as needed.